

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

J. KENNETH KEARNEY USA LTD.,

Plaintiff,

v.

DAVID SMITH,

Defendant.

CIVIL ACTION
NO. 04 CV 12643 RCL

J. KENNETH KEARNEY USA LTD.'S
LOCAL RULE 16.1(D)(3) CERTIFICATION

Pursuant to Local Rule 16.1(D)(3) of the United States District Court for the District of Massachusetts, the undersigned certifies that they have conferred regarding the above-captioned matter:

- (1) with a view to establishing a budget for conducting the full course – and various alternative courses – of the litigation; and
- (2) to consider the resolution of the litigation through the use of alternative dispute resolution programs such as those outlined in Local Rule 16.4.

Respectfully Submitted,

J. KENNETH KEARNEY USA LTD.

By its attorneys,



William A. Zucker, BBO # 541240
wzucker@ghlaw.com
Kristin M. Cataldo, BBO # 654033
kcataldo@ghlaw.com
Gadsby Hannah LLP
225 Franklin Street
Boston, MA 02110
(617) 345-7000



Name: Paul Miller
Title: Partner
J. Kenneth Kearney USA, LTD.
111 Speen Street, Suite 313
Framingham, MA 01701

Date: February 8, 2005

B0401482v1

CERTIFICATE OF SERVICE
I hereby certify that on this day a true copy of the above document was served upon the attorney of record for each party by mail/ by hand/ electronically.

Date: 2/9/05 